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Paper 42  
16 September 2009

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,641

NATIONAL JEWISH HEALTH (Paper 39)  
(09/809,753),  
Junior Party,

v.

UNIVERSITÉ DE SHERBROOKE  
(6,743,429),  
Senior Party.

Before: JAMESON LEE, RICHARD TORCZON, and SALLY C.  
MEDLEY, *Administrative Patent Judges*.

TORCZON, *Administrative Patent Judge*.

JUDGMENT

Bd.R. 127(b)  
on request

The junior party (National Jewish Health) has requested adverse judgment.<sup>1</sup> Accordingly—

JUDGMENT is ENTERED AGAINST the junior party, National Jewish Health, for count 1;<sup>2</sup> and

Claims 1, 3-10, 12-14, 20-26, 29, 30, 43, 44, and 46 of National Jewish Health's involved 09/809,753 application are FINALLY REFUSED.<sup>3</sup>

A copy of this judgment be entered in the administrative records of the involved patent and the involved application.

cc:

M. Paul Barker, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., of Palo Alto, California, with Gary J. Connell, Sheridan Ross PC, of Denver, Colorado

Steven J. Lee, Kenyon & Kenyon LLP, of New York, New York, with Jonathan D. Cutler, Osler, Hoskin & Harcourt LLP, of Montreal, Quebec

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<sup>1</sup> Paper 40.

<sup>2</sup> Paper 1 at 3.

<sup>3</sup> 35 U.S.C. 135(a).